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**SENATE BILL NO. 1392**

Offered January 14, 2009

Prefiled January 14, 2009

*A BILL to amend and reenact §§ 15.2-926, 16.1-248.1, 16.1-248.2, 16.1-248.3, 16.1-249, 16.1-250, 16.1-254, 16.1-256, 16.1-260, 16.1-274, 16.1-278.6, 16.1-281, 16.1-286, 16.1-291, 16.1-292, 16.1-298, 20-49, 22.1-265, 63.2-100, 63.2-906, and 66-13 of the Code of Virginia, and to amend the Code of Virginia by adding in Chapter 11 of Title 16.1 an article numbered 3.1, consisting of sections numbered 16.1-245.2 through 16.1-245.6, and to repeal §§ 16.1-278.4 and 16.1-278.5 of the Code of Virginia, relating to children in need of supervision or services.*

Patron—Stolle

Referred to Committee for Courts of Justice

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 15.2-926, 16.1-248.1, 16.1-248.2, 16.1-248.3, 16.1-249, 16.1-250, 16.1-254, 16.1-256, 16.1-260, 16.1-274, 16.1-278.6, 16.1-281, 16.1-286, 16.1-291, 16.1-292, 16.1-298, 20-49, 22.1-265, 63.2-100, 63.2-906, and 66-13 of the Code of Virginia are amended and reenacted and the Code of Virginia is amended by adding in Chapter 11 of Title 16.1 an article numbered 3.1, consisting of sections numbered 16.1-245.2 through 16.1-245.6, as follows:**

§ 15.2-926. Prohibiting loitering; frequenting amusements and curfew for minors; penalty.

A. Any locality may by ordinance prohibit loitering in, upon or around any public place, whether on public or private property. Any locality may by ordinance also prohibit minors who are not attended by their parents from frequenting or being in public places, whether on public or private property, at such times, between 10:00 p.m. and 6:00 a.m., as the governing body deems proper.

A violation of such ordinances by a minor shall be disposed of as provided in §§ ~~16.1-278.4~~ 16.1-245.4 and ~~16.1-278.5~~ 16.1-245.5.

B. A locality may by ordinance regulate the frequenting, playing in or loitering in public places of amusement by minors, and may prescribe punishment for violations of such ordinances not to exceed that prescribed for a Class 3 misdemeanor.

*Article 3.1.**Children in Need of Supervision or Services.*

§ 16.1-245.2. *Criteria for detention or shelter care in certain cases.*

A juvenile taken into custody whose case is considered by a judge, intake officer, or magistrate pursuant to § 16.1-247 shall immediately be released, upon the ascertainment of the necessary facts, to the care, custody, and control of such juvenile's parent, guardian, custodian, or other suitable person able and willing to provide supervision and care for such juvenile, either on bail or recognizance pursuant to Chapter 9 (§ 19.2-119 et seq.) of Title 19.2 or under such conditions as may be imposed or otherwise. However, at any time prior to an order of final disposition, a juvenile may be detained in a secure facility pursuant to a detention order or warrant, only upon a finding by the judge, intake officer, or magistrate, that there is probable cause to believe that the juvenile committed the act alleged, and that:

*The juvenile has failed to appear in court after having been duly served with a summons in any case in which it is alleged that the juvenile is in need of services or is in need of supervision; however, a child alleged to be in need of services or in need of supervision may be detained for good cause pursuant to this section only until the next day upon which the court sits within the county or city in which the charge against the child is pending, and under no circumstances longer than 72 hours from the time he was taken into custody. If the 72-hour period expires on a Saturday, Sunday, legal holiday, or day on which the court is lawfully closed, the 72 hours shall be extended to the next day that is not a Saturday, Sunday, legal holiday, or day on which the court is lawfully closed.*

When a juvenile is placed in secure detention, the detention order shall state the reason why the juvenile is being detained, and, to the extent practicable, other pending and previous charges.

§ 16.1-245.3. *Intake; petition; investigation.*

A. All matters concerning a child in need of services or a child in need of supervision that are alleged to be within the jurisdiction of the court shall be commenced by the filing of a petition. The form and content of the petition shall be as provided in § 16.1-262. Complaints, requests and the processing of petitions to initiate a case shall be the responsibility of the intake officer. Complaints alleging abuse or neglect of a child shall be referred initially to the local department of social services in accordance with the provisions of Chapter 15 (§ 63.2-1500 et seq.) of Title 63.2. Motions and other

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59 subsequent pleadings in a case shall be filed directly with the clerk.

60 B. The appearance of a child before an intake officer may be by (i) personal appearance before the  
61 intake officer or (ii) use of two-way electronic video and audio communication. If two-way electronic  
62 video and audio communication is used, an intake officer may exercise all powers conferred by law. All  
63 communications and proceedings shall be conducted in the same manner as if the appearance were in  
64 person, and any documents filed may be transmitted by facsimile process. The facsimile may be served  
65 or executed by the officer or person to whom sent, and returned in the same manner, and with the same  
66 force, effect, authority, and liability as an original document. All signatures thereon shall be treated as  
67 original signatures. Any two-way electronic video and audio communication system used for an  
68 appearance shall meet the standards as set forth in subsection B of § 19.2-3.1.

69 An intake officer may proceed informally on a complaint alleging a child is in need of services, in  
70 need of supervision or delinquent only if the juvenile (i) is not alleged to have committed a violent  
71 juvenile felony or (ii) has not previously been proceeded against informally or adjudicated delinquent  
72 for an offense that would be a felony if committed by an adult.

73 If a juvenile is alleged to be a truant pursuant to a complaint filed in accordance with § 22.1-258  
74 and the attendance officer has provided documentation to the intake officer that the relevant school  
75 division has complied with the provisions of § 22.1-258, then the intake officer shall file a petition with  
76 the court. The intake officer may defer filing the complaint for 90 days and proceed informally by  
77 developing a truancy plan. The intake officer may proceed informally only if the juvenile has not  
78 previously been proceeded against informally or adjudicated in need of supervision for failure to comply  
79 with compulsory school attendance as provided in § 22.1-254. The juvenile and his parent or parents,  
80 guardian or other person standing in loco parentis must agree, in writing, for the development of a  
81 truancy plan. The truancy plan may include requirements that the juvenile and his parent or parents,  
82 guardian or other person standing in loco parentis participate in such programs, cooperate in such  
83 treatment or be subject to such conditions and limitations as necessary to ensure the juvenile's  
84 compliance with compulsory school attendance as provided in § 22.1-254. The intake officer may refer  
85 the juvenile to the appropriate public agency for the purpose of developing a truancy plan using an  
86 interagency interdisciplinary team approach. The team may include qualified personnel who are  
87 reasonably available from the appropriate department of social services, community services board,  
88 local school division, court service unit and other appropriate and available public and private agencies  
89 and may be the family assessment and planning team established pursuant to § 2.2-5207. If at the end of  
90 the 90-day period the juvenile has not successfully completed the truancy plan or the truancy program,  
91 then the intake officer shall file the petition.

92 Whenever informal action is taken as provided in this subsection on a complaint alleging that a child  
93 is in need of services, in need of supervision or delinquent, the intake officer shall (i) develop a plan for  
94 the juvenile, which may include restitution and the performance of community service, based upon  
95 community resources and the circumstances that resulted in the complaint, (ii) create an official record  
96 of the action taken by the intake officer and file such record in the juvenile's case file, and (iii) advise  
97 the juvenile and the juvenile's parent, guardian or other person standing in loco parentis and the  
98 complainant that any subsequent complaint alleging that the child is in need of supervision or  
99 delinquent based upon facts which may be sufficient to invoke the jurisdiction of the court pursuant to  
100 § 16.1-241 will result in the filing of a petition with the court.

101 C. The intake officer shall accept and file a petition in which it is alleged that (i) the custody,  
102 visitation or support of a child is the subject of controversy or requires determination, (ii) a person has  
103 deserted, abandoned or failed to provide support for any person in violation of law, (iii) a child or such  
104 child's parent, guardian, legal custodian or other person standing in loco parentis is entitled to  
105 treatment, rehabilitation or other services which are required by law, or (iv) family abuse has occurred  
106 and a protective order is being sought pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1. If any such  
107 complainant does not file a petition, the intake officer may file it. In cases in which a child is alleged to  
108 be abused, neglected, in need of services, in need of supervision, or delinquent, if the intake officer  
109 believes that probable cause does not exist, or that the authorization of a petition will not be in the best  
110 interest of the family or juvenile or that the matter may be effectively dealt with by some agency other  
111 than the court, he may refuse to authorize the filing of a petition. The intake officer shall provide to a  
112 person seeking a protective order pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1 a written  
113 explanation of the conditions, procedures and time limits applicable to the issuance of protective orders  
114 pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1.

115 D. Prior to the filing of any petition alleging that a child is in need of supervision, the matter shall  
116 be reviewed by an intake officer who shall determine whether the petitioner and the child alleged to be  
117 in need of supervision have utilized or attempted to utilize treatment and services available in the  
118 community and have exhausted all appropriate nonjudicial remedies that are available to them. When  
119 the intake officer determines that the parties have not attempted to utilize available treatment or services  
120 or have not exhausted all appropriate nonjudicial remedies that are available, he shall refer the

petitioner and the child alleged to be in need of supervision to the appropriate agency, treatment facility or individual to receive treatment or services, and a petition shall not be filed. Only after the intake officer determines that the parties have made a reasonable effort to utilize available community treatment or services may he permit the petition to be filed.

E. The intake officer shall notify the attorney for the Commonwealth of the filing of any petition that alleges facts of an offense that would be a felony if committed by an adult.

F. Failure to comply with the procedures set forth in this section shall not divest the juvenile court of the jurisdiction granted it in § 16.1-241.

§ 16.1-245.4. Children in need of services.

If a child is found to be in need of services or a status offender, the juvenile court or the circuit court may make any of the following orders of disposition for the supervision, care and rehabilitation of the child:

1. Enter an order pursuant to the provisions of § 16.1-278.

2. Permit the child to remain with his parent subject to such conditions and limitations as the court may order with respect to such child and his parent.

3. Order the parent with whom the child is living to participate in such programs, cooperate in such treatment or be subject to such conditions and limitations as the court may order and as are designed for the rehabilitation of the child and his parent.

4. Beginning July 1, 1992, in the case of any child 14 years of age or older, where the court finds that the child is not able to benefit appreciably from further schooling, the court may excuse the child from further compliance with any legal requirement of compulsory school attendance as provided under § 22.1-254 or authorize the child, notwithstanding the provisions of any other law, to be employed in any occupation that is not legally declared hazardous for children under the age of 18.

5. Permit the local board of social services or a public agency designated by the community policy and management team to place the child, subject to the provisions of § 16.1-281, in suitable family homes, child caring institutions, residential facilities, or independent living arrangements with legal custody remaining with the parents or guardians. The local board or public agency and the parents or guardians shall enter into an agreement which shall specify the responsibilities of each for the care and control of the child. The board or public agency that places the child shall have the final authority to determine the appropriate placement for the child.

Any order allowing a local board or public agency to place a child where legal custody remains with the parents or guardians as provided in this section shall be entered only upon a finding by the court that reasonable efforts have been made to prevent placement out of the home and that continued placement in the home would be contrary to the welfare of the child, and the order shall so state.

6. Transfer legal custody to any of the following:

a. A relative or other individual who, after study, is found by the court to be qualified to receive and care for the child;

b. A child welfare agency, private organization or facility that is licensed or otherwise authorized by law to receive and provide care for such child. The court shall not transfer legal custody of a child in need of services to an agency, organization or facility out of the Commonwealth without the approval of the Commissioner of Social Services; or

c. The local board of social services of the county or city in which the court has jurisdiction or, at the discretion of the court, to the local board of the county or city in which the child has residence if other than the county or city in which the court has jurisdiction. The local board shall accept the child for care and custody, provided that it has been given reasonable notice of the pendency of the case and an opportunity to be heard. However, in an emergency in the county or city in which the court has jurisdiction, the local board may be required to accept a child for a period not to exceed 14 days without prior notice or an opportunity to be heard if the judge entering the placement order describes the emergency and the need for such temporary placement in the order. Nothing in this subdivision shall prohibit the commitment of a child to any local board of social services in the Commonwealth when the local board consents to the commitment. The board to which the child is committed shall have the final authority to determine the appropriate placement for the child.

Any order authorizing removal from the home and transferring legal custody of a child to a local board of social services as provided in this subdivision shall be entered only upon a finding by the court that reasonable efforts have been made to prevent removal and that continued placement in the home would be contrary to the welfare of the child, and the order shall so state.

7. Require the child to participate in a public service project under such conditions as the court prescribes.

§ 16.1-245.5. Children in need of supervision.

A. If a child is found to be in need of supervision, the court shall, before final disposition of the case, direct the appropriate public agency to evaluate the child's service needs using an interdisciplinary

182 team approach. The team shall consist of qualified personnel who are reasonably available from the  
183 appropriate department of social services, community services board, local school division, court service  
184 unit and other appropriate and available public and private agencies and may be the family assessment  
185 and planning team established pursuant to § 2.2-5207. A report of the evaluation shall be filed as  
186 provided in subsection A of § 16.1-274. In lieu of directing that an evaluation be made, the court may  
187 consider the report concerning the child of an interdisciplinary team that met not more than 90 days  
188 prior to the court's making a finding that the child is in need of supervision.

189 B. The court may make any of the following orders of disposition for the supervision, care and  
190 rehabilitation of the child:

191 1. Enter any order of disposition authorized by § 16.1-245.4 for a child found to be in need of  
192 services;

193 2. Place the child on probation under such conditions and limitations as the court may prescribe  
194 including suspension of the child's driver's license upon terms and conditions that may include the  
195 issuance of a restricted license for those purposes set forth in subsection E of § 18.2-271.1;

196 3. Order the child and/or his parent to participate in such programs, cooperate in such treatment or  
197 be subject to such conditions and limitations as the court may order and as are designed for the  
198 rehabilitation of the child;

199 4. Require the child to participate in a public service project under such conditions as the court may  
200 prescribe; or

201 5. a. Beginning July 1, 2009, in the case of any child subject to compulsory school attendance as  
202 provided in § 22.1-254, where the court finds that the child's parent is in violation of § 22.1-254,  
203 22.1-255, 22.1-265, or 22.1-267, in addition to any penalties provided in § 22.1-263 or 22.1-265, the  
204 court may order the parent with whom the child is living to participate in such programs, cooperate in  
205 such treatment, or be subject to such conditions and limitations as the court may order and as are  
206 designed for the rehabilitation of the child and/or the parent. Upon the failure of the parent to so  
207 participate or cooperate, or to comply with the conditions and limitations that the court orders, the  
208 court may impose a fine of not more than \$100 for each day in which the person fails to comply with  
209 the court order.

210 b. If the court finds that the parent has willfully disobeyed a lawful process, judgment, decree, or  
211 court order requiring such person to comply with the compulsory school attendance law, in addition to  
212 any conditions or limitations that the court may order or any penalties provided by § 16.1-245.4,  
213 16.1-278.2 through 16.1-278.19, 22.1-263 or 22.1-265, the court may impose the penalty authorized by  
214 § 18.2-371.

215 C. Any order entered pursuant to this section shall be provided in writing to the child, his parent or  
216 legal custodian, and to the child's attorney and shall contain adequate notice of the provisions of  
217 § 16.1-292 regarding willful violation of such order.

218 § 16.1-245.6. Violation of court order by any person.

219 A. Any person violating an order of the juvenile court entered pursuant to § 16.1-245.4 or 16.1-245.5  
220 may be proceeded against (i) by an order requiring the person to show cause why the order of the court  
221 has not been complied with, (ii) for contempt of court pursuant to § 16.1-69.24 or as otherwise provided  
222 in this section, or (iii) by both. Except as otherwise expressly provided herein, nothing in this chapter  
223 shall deprive the court of its power to punish summarily for contempt for such acts as set forth in  
224 § 18.2-456, or to punish for contempt after notice and an opportunity for a hearing on the contempt  
225 except that confinement in the case of a juvenile shall be in a secure facility for juveniles rather than in  
226 jail and shall not exceed a period of 10 days for each offense. However, if the person violating the  
227 order was a juvenile at the time of the original act and is 18 years of age or older when the court  
228 enters a disposition for violation of the order, the judge may order confinement in jail.

229 B. Notwithstanding the contempt power of the court, the court shall be limited in the actions it may  
230 take with respect to a child violating the terms and conditions of an order to those which the court  
231 could have taken at the time of the court's original disposition, except as hereinafter provided. However,  
232 this limitation shall not be construed to deprive the court of its power to punish a child summarily for  
233 contempt for acts set forth in § 18.2-456.

234 C. In the event a child in need of services is found to have willfully and materially violated for a  
235 second or subsequent time the order of the court pursuant to § 16.1-245.4, the dispositional alternatives  
236 specified in subdivision A 9 of § 16.1-278.8 shall be available to the court.

237 D. In the event a child in need of supervision is found to have willfully and materially violated an  
238 order of the court pursuant to § 16.1-245.5, the court may enter any of the following orders of  
239 disposition:

240 1. Suspend the child's motor vehicle driver's license;

241 2. Order any such child 14 years of age or older to be (i) placed in a foster home, group home or  
242 other nonsecure residential facility, or (ii) if the court finds that such placement is not likely to meet the  
243 child's needs, that all other treatment options in the community have been exhausted, and that secure

placement is necessary in order to meet the child's service needs, detained in a secure facility for a period of time not to exceed 10 consecutive days for violation of any order of the court arising out of the same petition. The court shall state in its order for detention the basis for all findings required by this section. When any child is detained in a secure facility pursuant to this section, the court shall direct the agency evaluating the child pursuant to § 16.1-245.5 to reconvene the interdisciplinary team participating in such evaluation as promptly as possible to review its evaluation, develop further treatment plans as may be appropriate and submit its report to the court for its determination as to further treatment efforts either during or following the period the child is in secure detention. A juvenile may only be detained pursuant to this section in a detention home or other secure facility in compliance with standards established by the State Board. Any order issued pursuant to this subsection is a final order and is appealable to the circuit court as provided by law.

E. Nothing in this section shall be construed to reclassify a child in need of services or in need of supervision as a delinquent.

§ 16.1-248.1. Criteria for detention or shelter care.

A. A juvenile taken into custody whose case is considered by a judge, intake officer or magistrate pursuant to § 16.1-247 shall immediately be released, upon the ascertainment of the necessary facts, to the care, custody and control of such juvenile's parent, guardian, custodian or other suitable person able and willing to provide supervision and care for such juvenile, either on bail or recognizance pursuant to Chapter 9 (§ 19.2-119 et seq.) of Title 19.2 or under such conditions as may be imposed or otherwise. However, at any time prior to an order of final disposition, a juvenile may be detained in a secure facility, pursuant to a detention order or warrant, only upon a finding by the judge, intake officer, or magistrate, that there is probable cause to believe that the juvenile committed the act alleged, and that at least one of the following conditions is met:

1. The juvenile is alleged to have (a) violated the terms of his probation or parole when the charge for which he was placed on probation or parole would have been a felony or Class 1 misdemeanor if committed by an adult or (b) committed an act that would be a felony or Class 1 misdemeanor if committed by an adult, and there is clear and convincing evidence that:

a. Considering the seriousness of the current offense or offenses and other pending charges, the seriousness of prior adjudicated offenses, the legal status of the juvenile and any aggravating and mitigating circumstances, the liberty of the juvenile, constitutes a clear and substantial threat to the person or property of others;

b. The liberty of the juvenile would present a clear and substantial threat of serious harm to such juvenile's life or health; or

c. The juvenile has threatened to abscond from the court's jurisdiction during the pendency of the instant proceedings or has a record of willful failure to appear at a court hearing within the immediately preceding 12 months.

2. The juvenile has absconded from a detention home or facility where he has been directed to remain by the lawful order of a judge or intake officer.

3. The juvenile is a fugitive from a jurisdiction outside the Commonwealth and subject to a verified petition or warrant, in which case such juvenile may be detained for a period not to exceed that provided for in § 16.1-323 while arrangements are made to return the juvenile to the lawful custody of a parent, guardian or other authority in another state.

4. The juvenile has failed to appear in court after having been duly served with a summons in any case in which it is alleged that the juvenile has committed a delinquent act or that the child is in need of services or is in need of supervision; however, a child alleged to be in need of services or in need of supervision may be detained for good cause pursuant to this subsection only until the next day upon which the court sits within the county or city in which the charge against the child is pending, and under no circumstances longer than 72 hours from the time he was taken into custody. If the 72-hour period expires on a Saturday, Sunday, legal holiday or day on which the court is lawfully closed, the 72 hours shall be extended to the next day that is not a Saturday, Sunday, legal holiday or day on which the court is lawfully closed.

When a juvenile is placed in secure detention, the detention order shall state the offense for which the juvenile is being detained, and, to the extent practicable, other pending and previous charges.

B. Any juvenile not meeting the criteria for placement in a secure facility shall be released to a parent, guardian or other person willing and able to provide supervision and care under such conditions as the judge, intake officer or magistrate may impose. However, a juvenile may be placed in shelter care if:

1. The juvenile is eligible for placement in a secure facility;

2. The juvenile has failed to adhere to the directions of the court, intake officer or magistrate while on conditional release;

3. The juvenile's parent, guardian or other person able to provide supervision cannot be reached

305 within a reasonable time;

306 4. The juvenile does not consent to return home;

307 5. Neither the juvenile's parent or guardian nor any other person able to provide proper supervision  
308 can arrive to assume custody within a reasonable time; or

309 6. The juvenile's parent or guardian refuses to permit the juvenile to return home and no relative or  
310 other person willing and able to provide proper supervision and care can be located within a reasonable  
311 time.

312 C. When a juvenile is detained in a secure facility, the juvenile's probation officer may review such  
313 placement for the purpose of seeking a less restrictive alternative to confinement in that secure facility.

314 D. The criteria for continuing the juvenile in detention or shelter care as set forth in this section shall  
315 govern the decisions of all persons involved in determining whether the continued detention or shelter  
316 care is warranted pending court disposition. Such criteria shall be supported by clear and convincing  
317 evidence in support of the decision not to release the juvenile.

318 E. Nothing in this section shall be construed to deprive the court of its power to punish a juvenile  
319 summarily for contempt for acts set forth in § 18.2-456, other than acts of disobedience of the court's  
320 dispositional order which are committed outside the presence of the court.

321 F. A detention order may be issued pursuant to subdivision 2 of subsection A by the committing  
322 court or by the court in the jurisdiction from which the juvenile fled or where he was taken into  
323 custody.

324 G. The court is authorized to detain a juvenile based upon the criteria set forth in subsection A at  
325 any time after a delinquency petition has been filed, both prior to adjudication and after adjudication  
326 pending final disposition subject to the time limitations set forth in § 16.1-277.1.

327 H. If the intake officer or magistrate releases the juvenile, either on bail or recognizance or under  
328 such conditions as may be imposed, no motion to revoke bail, or change such conditions may be made  
329 unless (i) the juvenile has violated a term or condition of his release, or is convicted of or taken into  
330 custody for an additional offense, or (ii) the attorney for the Commonwealth presents evidence that  
331 incorrect or incomplete information regarding the factors in subsection A was relied upon by the intake  
332 officer or magistrate establishing the initial terms of release. If the juvenile court releases the juvenile,  
333 either on bail or recognizance or under such conditions as may be imposed, over the objection of the  
334 attorney for the Commonwealth, the attorney for the Commonwealth may appeal such decision to the  
335 circuit court. The order of the juvenile court releasing the juvenile shall remain in effect until the circuit  
336 court, Court of Appeals or Supreme Court rules otherwise.

337 § 16.1-248.2. Mental health screening and assessment for certain juveniles.

338 Whenever a juvenile is placed in a secure facility pursuant to § 16.1-245.2 or 16.1-248.1, the staff of  
339 the facility shall gather such information from the juvenile and the probation officer as is reasonably  
340 available and deemed necessary by the facility staff. As part of the intake procedures at each such  
341 facility, the staff shall ascertain the juvenile's need for a mental health assessment. If it is determined  
342 that the juvenile needs such an assessment, the assessment shall take place within twenty-four hours of  
343 such determination. The community services board serving the jurisdiction where the facility is located  
344 shall be responsible for conducting the assessments and shall be compensated from funds appropriated to  
345 the Department of Juvenile Justice for this purpose. The Department of Juvenile Justice shall develop  
346 criteria and a compensation plan for such assessments.

347 § 16.1-248.3. Medical records of juveniles in secure facility.

348 Whenever a juvenile is placed in a secure facility or a shelter care facility pursuant to § 16.1-245.2  
349 or 16.1-248.1, the director of the facility or his designee shall be entitled to obtain medical records  
350 concerning the juvenile from a provider. Prior to using the authority granted by this section to obtain  
351 such records, the director of the facility or his designee shall make a reasonable attempt to obtain  
352 consent for the release of the records from the juvenile's parent or legal guardian or, in instances where  
353 the juvenile may consent pursuant to § 54.1-2969, from the juvenile. The director of the facility or his  
354 designee may proceed to obtain the records from the provider if such consent is refused or is not readily  
355 obtainable and the records are necessary (i) for the provision of health care to the juvenile, (ii) to protect  
356 the health and safety of the juvenile or other residents or staff of the facility or (iii) to maintain the  
357 security and safety of the facility.

358 The director or his designee shall document in writing the reason that the records were requested and  
359 that a reasonable attempt was made to obtain consent for the release of records and that consent was  
360 refused or not readily obtainable.

361 No person to whom disclosure of records was made pursuant to this section shall redisclose or  
362 otherwise reveal the records, beyond the purpose for which such disclosure was made, without first  
363 obtaining specific consent to redisclose from the juvenile's parent or legal guardian or, in instances  
364 where the juvenile may consent pursuant to § 54.1-2969, from the juvenile.

365 Substance abuse records subject to federal regulations, Confidentiality of Alcohol and Drug Abuse  
366 Patient Records, 42 C.F.R. Part 2, shall not be subject to the provisions of this section. The disclosure

of results of a test for human immunodeficiency virus shall not be permitted except as provided in § 32.1-36.1.

The definitions of "provider" and "records" in § 32.1-127.1:03 shall apply to this section.

§ 16.1-249. Places of confinement for juveniles.

A. If it is ordered that a juvenile remain in detention or shelter care pursuant to § 16.1-245.2 or 16.1-248.1, such juvenile may be detained, pending a court hearing, in the following places:

1. An approved foster home or a home otherwise authorized by law to provide such care;

2. A facility operated by a licensed child welfare agency;

3. If a juvenile is alleged to be delinquent, in a detention home or group home approved by the Department;

4. Any other suitable place designated by the court and approved by the Department;

5. To the extent permitted by federal law, a separate juvenile detention facility located upon the site of an adult regional jail facility established by any county, city or any combination thereof constructed after 1994, approved by the Department of Juvenile Justice and certified by the Board of Juvenile Justice for the holding and detention of juveniles.

B. No juvenile shall be detained or confined in any jail or other facility for the detention of adult offenders or persons charged with crime except as provided in subsection D, E, F or G of this section.

C. The official in charge of a jail or other facility for the detention of adult offenders or persons charged with crime shall inform the court immediately when a juvenile who is or appears to be under the age of 18 years is received at the facility, and shall deliver him to the court upon request, or transfer him to a detention facility designated by the court.

D. When a case is transferred to the circuit court in accordance with the provisions of subsection A of § 16.1-269.1 and an order is entered by the circuit court in accordance with § 16.1-269.6, or in accordance with the provisions of § 16.1-270 where the juvenile has waived the jurisdiction of the district court, or when the district court has certified a charge to the grand jury pursuant to subsection B or C of § 16.1-269.1, the juvenile, if in confinement, may be transferred to a jail or other facility for the detention of adults and need no longer be entirely separate and removed from adults.

E. If, in the judgment of the custodian, a juvenile has demonstrated that he is a threat to the security or safety of the other juveniles detained or the staff of the home or facility, the judge shall determine whether such juvenile should be transferred to another juvenile facility or, if the child is 14 years of age or older, a jail or other facility for the detention of adults; provided, that (i) the detention is in a room or ward entirely separate and removed from adults, (ii) adequate supervision is provided, and (iii) the facility is approved by the State Board of Corrections for detention of juveniles.

F. If, in the judgment of the custodian, it has been demonstrated that the presence of a juvenile in a facility creates a threat to the security or safety of the other juveniles detained or the staff of the home or facility, the custodian may transfer the juvenile to another juvenile facility, or, if the child is 14 years of age or older, a jail or other facility for the detention of adults pursuant to the limitations of clauses (i), (ii) and (iii) of subsection E for a period not to exceed six hours prior to a court hearing and an additional six hours after the court hearing unless a longer period is ordered pursuant to subsection E.

G. If a juvenile 14 years of age or older is charged with an offense which, if committed by an adult, would be a felony or Class 1 misdemeanor, and the judge or intake officer determines that secure detention is needed for the safety of the juvenile or the community, such juvenile may be detained for a period not to exceed six hours prior to a court hearing and six hours after the court hearing in a temporary lock-up room or ward for juveniles while arrangements are completed to transfer the juvenile to a juvenile facility. Such room or ward may be located in a building which also contains a jail or other facility for the detention of adults, provided (i) such room or ward is totally separate and removed from adults or juveniles transferred to the circuit court pursuant to Article 7 (§ 16.1-269.1 et seq.) of this chapter, (ii) constant supervision is provided, and (iii) the facility is approved by the State Board of Corrections for the detention of juveniles. The State Board of Corrections is authorized and directed to prescribe minimum standards for temporary lock-up rooms and wards based on the requirements set out in this subsection.

G1. Any juvenile who has been ordered detained in a secure detention facility pursuant to § 16.1-245.2 or 16.1-248.1 may be held incident to a court hearing (i) in a court holding cell for a period not to exceed six hours provided the juvenile is entirely separate and removed from detained adults or (ii) in a nonsecure area provided constant supervision is provided.

H. If a judge, intake officer or magistrate orders the predispositional detention of persons 18 years of age or older, such detention shall be in an adult facility; however, if the predispositional detention is ordered for a violation of the terms and conditions of release from a juvenile correctional center, the judge, intake officer or magistrate may order such detention be in a juvenile facility.

I. The Departments of Corrections, Juvenile Justice and Criminal Justice Services shall assist the localities or combinations thereof in implementing this section and ensuring compliance herewith.

428 § 16.1-250. Procedure for detention hearing.

429 A. When a child has been taken into immediate custody and not released as provided in  
430 § 16.1-245.2, 16.1-247, or § 16.1-248.1, such child shall appear before a judge on the next day on  
431 which the court sits within the county or city wherein the charge against the child is pending. In the  
432 event the court does not sit within the county or city on the following day, such child shall appear  
433 before a judge within a reasonable time, not to exceed 72 hours, after he has been taken into custody. If  
434 the 72-hour period expires on a Saturday, Sunday or other legal holiday, the 72 hours shall be extended  
435 to the next day which is not a Saturday, Sunday or legal holiday. In the event the court does not sit on  
436 the following day within the county or city wherein the charge against the child is pending, the court  
437 may conduct the hearing in another county or city, but only if two-way electronic video and audio  
438 communication is available in the courthouse of the county or city wherein the charge is pending.

439 B. The appearance of the child, the attorney for the Commonwealth, the attorney for the child and  
440 the parent, guardian, legal custodian or other person standing in loco parentis may be by (i) personal  
441 appearance before the judge or (ii) use of two-way electronic video and audio communication. If  
442 two-way electronic video and audio communication is used, a judge may exercise all powers conferred  
443 by law and all communications and proceedings shall be conducted in the same manner as if the  
444 appearance were in person, and any documents filed may be transmitted by electronically transmitted  
445 facsimile process. The facsimile may be served or executed by the officer or person to whom sent, and  
446 returned in the same manner, and with the same force, effect, authority, and liability as an original  
447 document. All signatures thereon shall be treated as original signatures. Any two-way electronic video  
448 and audio communication system used for an appearance shall meet the standards as set forth in  
449 subsection B of § 19.2-3.1.

450 C. Notice of the detention hearing or any rehearing, either oral or written, stating the time, place and  
451 purpose of the hearing shall be given to the parent, guardian, legal custodian or other person standing in  
452 loco parentis if he can be found, to the child's attorney, to the child if 12 years of age or older and to  
453 the attorney for the Commonwealth.

454 D. During the detention hearing, the parties shall be informed of the child's right to remain silent  
455 with respect to any allegation of delinquency and of the contents of the petition. The attorney for the  
456 child and the attorney for the Commonwealth shall be given the opportunity to be heard.

457 E. If the judge finds that there is not probable cause to believe that the child committed the  
458 delinquent act alleged, the court shall order his release. If the judge finds that there is probable cause to  
459 believe that the child committed the delinquent act alleged but that the full-time detention of a child  
460 who is alleged to be delinquent is not required, the court shall order his release, and in so doing, the  
461 court may impose one or more of the following conditions singly or in combination:

462 1. Place the child in the custody of a parent, guardian, legal custodian or other person standing in  
463 loco parentis under their supervision, or under the supervision of an organization or individual agreeing  
464 to supervise him;

465 2. Place restrictions on the child's travel, association or place of abode during the period of his  
466 release;

467 3. Impose any other condition deemed reasonably necessary and consistent with the criteria for  
468 detaining children specified in § 16.1-245.2 or 16.1-248.1; or

469 4. Release the child on bail or recognizance in accordance with the provisions of Chapter 9  
470 (§ 19.2-119 et seq.) of Title 19.2.

471 F. An order releasing a child on any of the conditions specified in this section may, at any time, be  
472 amended to impose additional or different conditions of release or to return the child who is alleged to  
473 be delinquent to custody for failure to conform to the conditions previously imposed.

474 G. All relevant and material evidence helpful in determining probable cause under this section or the  
475 need for detention may be admitted by the court even though not competent in a hearing on the petition.

476 H. If the child is not released and a parent, guardian, legal custodian or other person standing in loco  
477 parentis is not notified and does not appear or does not waive appearance at the hearing, upon the  
478 written request of such person stating that such person is willing and available to supervise the child  
479 upon release from detention and to return the child to court for all scheduled proceedings on the  
480 pending charges, the court shall rehear the matter on the next day on which the court sits within the  
481 county or city wherein the charge against the child is pending. If the court does not sit within the  
482 county or city on the following day, such hearing shall be held before a judge within a reasonable time,  
483 not to exceed 72 hours, after the request.

484 I. In considering probable cause under this section, if the court deems it necessary to summon  
485 witnesses to assist in such determination then the hearing may be continued and the child remain in  
486 detention, but in no event longer than three consecutive days, exclusive of Saturdays, Sundays, and legal  
487 holidays.

488 § 16.1-254. Responsibility for and limitation on transportation of children.

489 A. The detention home having custody or responsibility for supervision of a child pursuant to



§§ 16.1-245.2, 16.1-246, 16.1-247, 16.1-248.1, 16.1-249, and 16.1-250 shall be responsible for transportation of the child to all local medical appointments, dental appointments, psychological and psychiatric evaluations. Transportation of youth to special placements pursuant to § 16.1-286 shall be the responsibility of the court service unit.

B. However, the chief judge of the juvenile and domestic relations district court, on the basis of guidelines approved by the Board, shall designate the appropriate agencies in each county, city and town, other than the Department of State Police, to be responsible for (i) the transportation of violent and disruptive children and (ii) the transportation of children to destinations other than those set forth in subsection A of this section, pursuant to §§ 16.1-245.2, 16.1-246, 16.1-247, 16.1-248.1, 16.1-249, and 16.1-250, and as otherwise ordered by the judge.

No child shall be transported with adults suspected of or charged with criminal acts.

§ 16.1-256. Limitations as to issuance of warrants for juveniles; detention orders.

No warrant of arrest shall be issued for any juvenile by a magistrate, except as follows:

1. As provided in § 16.1-260 on appeal from a decision of an intake officer; or

2. Upon a finding of probable cause to believe that the child is in need of services or is a delinquent, when (i) the court is not open and (ii) the judge and the intake officer of the juvenile and domestic relations district court are not reasonably available. For purposes of this section, the phrase "not reasonably available" means that neither the judge nor the intake officer of the juvenile and domestic relations district court could be reached after the appearance by the juvenile before a magistrate or that neither could arrive within one hour after he was contacted.

When a magistrate is authorized to issue a warrant pursuant to subdivision 2, he may also issue a detention order, if the criteria for detention set forth in § 16.1-245.2 or 16.1-248.1 have been satisfied.

Warrants issued pursuant to this section shall be delivered forthwith to the juvenile court.

§ 16.1-260. Intake; petition; investigation.

A. All matters alleged to be within the jurisdiction of the court shall be commenced by the filing of a petition, except as provided in subsection H of this section and in § 16.1-259. The form and content of the petition shall be as provided in § 16.1-262. No individual shall be required to obtain support services from the Department of Social Services prior to filing a petition seeking support for a child. Complaints, requests and the processing of petitions to initiate a case shall be the responsibility of the intake officer. However, (i) the attorney for the Commonwealth of the city or county may file a petition on his own motion with the clerk, (ii) designated nonattorney employees of the Department of Social Services may complete, sign and file petitions and motions relating to the establishment, modification, or enforcement of support on forms approved by the Supreme Court of Virginia with the clerk, and (iii) any attorney may file petitions on behalf of his client with the clerk except petitions alleging that the subject of the petition is a child alleged to be in need of services, in need of supervision or delinquent. Complaints alleging abuse or neglect of a child shall be referred initially to the local department of social services in accordance with the provisions of Chapter 15 (§ 63.2-1500 et seq.) of Title 63.2. Motions and other subsequent pleadings in a case shall be filed directly with the clerk. The intake officer or clerk with whom the petition or motion is filed shall inquire whether the petitioner is receiving child support services or public assistance. No individual who is receiving support services or public assistance shall be denied the right to file a petition or motion to establish, modify or enforce an order for support of a child. If the petitioner is seeking or receiving child support services or public assistance, the clerk, upon issuance of process, shall forward a copy of the petition or motion, together with notice of the court date, to the Division of Child Support Enforcement.

B. The appearance of a child before an intake officer may be by (i) personal appearance before the intake officer or (ii) use of two-way electronic video and audio communication. If two-way electronic video and audio communication is used, an intake officer may exercise all powers conferred by law. All communications and proceedings shall be conducted in the same manner as if the appearance were in person, and any documents filed may be transmitted by facsimile process. The facsimile may be served or executed by the officer or person to whom sent, and returned in the same manner, and with the same force, effect, authority, and liability as an original document. All signatures thereon shall be treated as original signatures. Any two-way electronic video and audio communication system used for an appearance shall meet the standards as set forth in subsection B of § 19.2-3.1.

When the court service unit of any court receives a complaint alleging facts which may be sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241, the unit, through an intake officer, may proceed informally to make such adjustment as is practicable without the filing of a petition or may authorize a petition to be filed by any complainant having sufficient knowledge of the matter to establish probable cause for the issuance of the petition.

An intake officer may proceed informally on a complaint alleging a child is in need of services, in need of supervision or delinquent only if the juvenile (i) is not alleged to have committed a violent juvenile felony or (ii) has not previously been proceeded against informally or adjudicated delinquent for

an offense that would be a felony if committed by an adult. A petition alleging that a juvenile committed a violent juvenile felony shall be filed with the court. A petition alleging that a juvenile is delinquent for an offense that would be a felony if committed by an adult shall be filed with the court if the juvenile had previously been proceeded against informally by intake or had been adjudicated delinquent.

If a juvenile is alleged to be a truant pursuant to a complaint filed in accordance with § 22.1-258 and the attendance officer has provided documentation to the intake officer that the relevant school division has complied with the provisions of § 22.1-258, then the intake officer shall file a petition with the court. The intake officer may defer filing the complaint for 90 days and proceed informally by developing a truancy plan. The intake officer may proceed informally only if the juvenile has not previously been proceeded against informally or adjudicated in need of supervision for failure to comply with compulsory school attendance as provided in § 22.1-254. The juvenile and his parent or parents, guardian or other person standing in loco parentis must agree, in writing, for the development of a truancy plan. The truancy plan may include requirements that the juvenile and his parent or parents, guardian or other person standing in loco parentis participate in such programs, cooperate in such treatment or be subject to such conditions and limitations as necessary to ensure the juvenile's compliance with compulsory school attendance as provided in § 22.1-254. The intake officer may refer the juvenile to the appropriate public agency for the purpose of developing a truancy plan using an interagency interdisciplinary team approach. The team may include qualified personnel who are reasonably available from the appropriate department of social services, community services board, local school division, court service unit and other appropriate and available public and private agencies and may be the family assessment and planning team established pursuant to § 2.2-5207. If at the end of the 90-day period the juvenile has not successfully completed the truancy plan or the truancy program, then the intake officer shall file the petition.

Whenever informal action is taken as provided in this subsection on a complaint alleging that a child is in need of services, in need of supervision or delinquent, the intake officer shall (i) develop a plan for the juvenile, which may include restitution and the performance of community service, based upon community resources and the circumstances which resulted in the complaint, (ii) create an official record of the action taken by the intake officer and file such record in the juvenile's case file, and (iii) advise the juvenile and the juvenile's parent, guardian or other person standing in loco parentis and the complainant that any subsequent complaint alleging that the child is in need of supervision or delinquent based upon facts which may be sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241 will result in the filing of a petition with the court.

C. The intake officer shall accept and file a petition in which it is alleged that (i) the custody, visitation or support of a child is the subject of controversy or requires determination, (ii) a person has deserted, abandoned or failed to provide support for any person in violation of law, (iii) a child or such child's parent, guardian, legal custodian or other person standing in loco parentis is entitled to treatment, rehabilitation or other services which are required by law, or (iv) family abuse has occurred and a protective order is being sought pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1. If any such complainant does not file a petition, the intake officer may file it. In cases in which a child is alleged to be abused, neglected, in need of services, in need of supervision or delinquent, if the intake officer believes that probable cause does not exist, or that the authorization of a petition will not be in the best interest of the family or juvenile or that the matter may be effectively dealt with by some agency other than the court, he may refuse to authorize the filing of a petition. The intake officer shall provide to a person seeking a protective order pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1 a written explanation of the conditions, procedures and time limits applicable to the issuance of protective orders pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1.

D. Prior to the filing of any petition alleging that a child is in need of supervision, the matter shall be reviewed by an intake officer who shall determine whether the petitioner and the child alleged to be in need of supervision have utilized or attempted to utilize treatment and services available in the community and have exhausted all appropriate nonjudicial remedies which are available to them. When the intake officer determines that the parties have not attempted to utilize available treatment or services or have not exhausted all appropriate nonjudicial remedies which are available, he shall refer the petitioner and the child alleged to be in need of supervision to the appropriate agency, treatment facility or individual to receive treatment or services, and a petition shall not be filed. Only after the intake officer determines that the parties have made a reasonable effort to utilize available community treatment or services may he permit the petition to be filed.

E. If the intake officer refuses to authorize a petition relating to an offense that if committed by an adult would be punishable as a Class 1 misdemeanor or as a felony, the complainant shall be notified in writing at that time of the complainant's right to apply to a magistrate for a warrant. If a magistrate determines that probable cause exists, he shall issue a warrant returnable to the juvenile and domestic relations district court. The warrant shall be delivered forthwith to the juvenile court, and the intake

officer shall accept and file a petition founded upon the warrant. If the court is closed and the magistrate finds that the criteria for detention or shelter care set forth in § 16.1-245.2 or 16.1-248.1 have been satisfied, the juvenile may be detained pursuant to the warrant issued in accordance with this subsection. If the intake officer refuses to authorize a petition relating to a child in need of services or in need of supervision, a status offense, or a misdemeanor other than Class 1, his decision is final.

Upon delivery to the juvenile court of a warrant issued pursuant to subdivision 2 of § 16.1-256, the intake officer shall accept and file a petition founded upon the warrant.

F. The intake officer shall notify the attorney for the Commonwealth of the filing of any petition which alleges facts of an offense which would be a felony if committed by an adult.

G. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) of this chapter, the intake officer shall file a report with the division superintendent of the school division in which any student who is the subject of a petition alleging that such student who is a juvenile has committed an act, wherever committed, which would be a crime if committed by an adult. The report shall notify the division superintendent of the filing of the petition and the nature of the offense, if the violation involves:

1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-299 et seq.), or 7 (§ 18.2-308 et seq.) of Chapter 7 of Title 18.2;

2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;

3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2;

4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;

5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances, pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;

6. Manufacture, sale or distribution of marijuana pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;

7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;

8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;

9. Robbery pursuant to § 18.2-58;

10. Prohibited street gang participation pursuant to § 18.2-46.2;

11. Prohibited criminal street gang activity pursuant to § 18.2-46.2;

12. Recruitment of other juveniles for a criminal street gang activity pursuant to § 18.2-46.3; or

13. Recruitment of juveniles for criminal street gang pursuant to § 18.2-46.3.

The failure to provide information regarding the school in which the juvenile who is the subject of the petition may be enrolled shall not be grounds for refusing to file a petition.

The information provided to a division superintendent pursuant to this section may be disclosed only as provided in § 16.1-305.2.

H. The filing of a petition shall not be necessary:

1. In the case of violations of the traffic laws, including offenses involving bicycles, hitchhiking and other pedestrian offenses, game and fish laws or a violation of the ordinance of any city regulating surfing or any ordinance establishing curfew violations, animal control violations or littering violations. In such cases the court may proceed on a summons issued by the officer investigating the violation in the same manner as provided by law for adults. Additionally, an officer investigating a motor vehicle accident may, at the scene of the accident or at any other location where a juvenile who is involved in such an accident may be located, proceed on a summons in lieu of filing a petition.

2. In the case of seeking consent to apply for the issuance of a work permit pursuant to subsection H of § 16.1-241.

3. In the case of a violation of § 18.2-266 or 29.1-738, or the commission of any other alcohol-related offense, provided the juvenile is released to the custody of a parent or legal guardian pending the initial court date. The officer releasing a juvenile to the custody of a parent or legal guardian shall issue a summons to the juvenile and shall also issue a summons requiring the parent or legal guardian to appear before the court with the juvenile. Disposition of the charge shall be in the manner provided in § 16.1-278.8 or 16.1-278.9. If the juvenile so charged with a violation of § 18.2-51.4, 18.2-266, 18.2-266.1, 18.2-272, or 29.1-738 refuses to provide a sample of blood or breath or samples of both blood and breath for chemical analysis pursuant to §§ 18.2-268.1 through 18.2-268.12 or 29.1-738.2, the provisions of these sections shall be followed except that the magistrate shall authorize execution of the warrant as a summons. The summons shall be served on a parent or legal guardian and the juvenile, and a copy of the summons shall be forwarded to the court in which the violation is to be tried.

4. In the case of offenses which, if committed by an adult, would be punishable as a Class 3 or Class 4 misdemeanor. In such cases the court may direct that an intake officer proceed as provided in § 16.1-237 on a summons issued by the officer investigating the violation in the same manner as provided by law for adults provided that notice of the summons to appear is mailed by the investigating

officer within five days of the issuance of the summons to a parent or legal guardian of the juvenile.

I. Failure to comply with the procedures set forth in this section shall not divest the juvenile court of the jurisdiction granted it in § 16.1-241.

§ 16.1-274. Time for filing of reports; copies furnished to attorneys; amended reports; fees.

A. Whenever any court directs an investigation pursuant to subsection A of § 16.1-237, § 16.1-273, or § 9.1-153, or an evaluation pursuant to ~~§ 16.1-278.5~~ 16.1-245.5, the probation officer, court-appointed special advocate, or other agency conducting such investigation shall file such report with the clerk of the court directing the investigation. The clerk shall furnish a copy of such report to all attorneys representing parties in the matter before the court no later than seventy-two hours, and in cases of child custody, 15 days, prior to the time set by the court for hearing the matter. If such probation officer or other agency discovers additional information or a change in circumstance after the filing of the report, an amended report shall be filed forthwith and a copy sent to each person who received a copy of the original report. Whenever such a report is not filed or an amended report is filed, the court shall grant such continuance of the proceedings as justice requires. All attorneys receiving such report or amended report shall return such to the clerk upon the conclusion of the hearing and shall not make copies of such report or amended report or any portion thereof. However, the chief judge of each juvenile and domestic relations district court may provide for an alternative means of copying and distributing reports or amended reports filed pursuant to § 9.1-153.

B. Notwithstanding the provisions of §§ 16.1-69.48:2 and 17.1-275, when the court directs the appropriate local department of social services to conduct supervised visitation or directs the appropriate local department of social services or court services unit to conduct an investigation pursuant to § 16.1-273 or to provide mediation services in matters involving a child's custody, visitation, or support, the court shall assess a fee against the petitioner, the respondent, or both, in accordance with fee schedules established by the appropriate local board of social services when the service is provided by a local department of social services and by the State Board of Juvenile Justice when the service is provided by a court services unit. The fee schedules shall include (i) standards for determining the paying party's or parties' ability to pay and (ii) a scale of fees based on the paying party's or parties' income and family size and the actual cost of the services provided. The fee charged shall not exceed the actual cost of the service. The fee shall be assessed as a cost of the case and shall be paid as prescribed by the court to the local department of social services, locally operated court services unit or Department of Juvenile Justice, whichever performed the service, unless payment is waived. The method and medium for payment for such services shall be determined by the local department of social services, Department of Juvenile Justice, or the locally operated court services unit that provided the services.

C. When a local department of social services or any court services unit is requested by another local department or court services unit in the Commonwealth or by a similar department or entity in another state to conduct an investigation involving a child's custody, visitation or support pursuant to § 16.1-273 or, in the case of a request from another state pursuant to a provision corresponding to § 16.1-273, or to provide mediation services, or for a local department of social services to provide supervised visitation, the local department or the court services unit performing the service may require payment of fees prior to conducting the investigation or providing mediation services or supervised visitation.

§ 16.1-278.6. Status offenders.

If a child is alleged to be a status offender, including but not limited to those cases in which the juvenile is alleged to have committed a curfew violation or a violation of the law regarding tobacco, the juvenile court or the circuit court may enter any order of disposition authorized by ~~§ 16.1-278.4~~ 16.1-245.4.

§ 16.1-281. Foster care plan.

A. In any case in which (i) a local board of social services places a child through an agreement with the parents or guardians where legal custody remains with the parents or guardian, or (ii) legal custody of a child is given to a local board of social services or a child welfare agency, the local department of social services or child welfare agency shall prepare a foster care plan for such child, as described hereinafter. The individual family service plan developed by the family assessment and planning team pursuant to § 2.2-5208 may be accepted by the court as the foster care plan if it meets the requirements of this section.

The representatives of such department or agency shall involve the child's parent(s) in the development of the plan, except when parental rights have been terminated or the local department of social services or child welfare agency has made diligent efforts to locate the parent(s) and such parent(s) cannot be located, and any other person or persons standing in loco parentis at the time the board or child welfare agency obtained custody or the board placed the child. The representatives of such department or agency shall involve the child in the development of the plan, if such involvement is consistent with the best interests of the child. In cases where either the parent(s) or child is not involved in the development of the plan, the department or agency shall include in the plan a full description of

the reasons therefor.

The department or child welfare agency shall file the plan with the juvenile and domestic relations district court within 60 days following the transfer of custody or the board's placement of the child unless the court, for good cause shown, allows an extension of time, which shall not exceed an additional 60 days. However, a foster care plan shall be filed in accordance with the provisions of § 16.1-277.01 with a petition for approval of an entrustment agreement. A foster care plan need not be prepared if the child is returned to his prior family or placed in an adoptive home within 60 days following transfer of custody to the board or agency or the board's placement of the child.

B. The foster care plan shall describe in writing (i) the programs, care, services and other support which will be offered to the child and his parents and other prior custodians; (ii) the participation and conduct which will be sought from the child's parents and other prior custodians; (iii) the visitation and other contacts which will be permitted between the child and his parents and other prior custodians, and between the child and his siblings; (iv) the nature of the placement or placements which will be provided for the child; (v) for children 14 years of age and older, the child's needs and goals in the areas of counseling, education, housing, employment, and money management skills development, along with specific independent living services that will be provided to the child to help him reach these goals; and (vi) where appropriate for children age 16 or over, the programs and services which will help the child prepare for the transition from foster care to independent living. If consistent with the child's health and safety, the plan shall be designed to support reasonable efforts which lead to the return of the child to his parents or other prior custodians within the shortest practicable time which shall be specified in the plan. The child's health and safety shall be the paramount concern of the court and the agency throughout the placement, case planning, service provision and review process.

If the department or child welfare agency concludes that it is not reasonably likely that the child can be returned to his prior family within a practicable time, consistent with the best interests of the child, in a separate section of the plan the department, child welfare agency or team shall (a) include a full description of the reasons for this conclusion; (b) provide information on the opportunities for placing the child with a relative or in an adoptive home; (c) design the plan to lead to the child's successful placement with a relative if a subsequent transfer of custody to the relative is planned, or in an adoptive home within the shortest practicable time, and if neither of such placements is feasible; (d) explain why permanent foster care, independent living for a child 16 years of age or older, or continued foster care is the plan for the child. "Independent living" as used in this section has the meaning set forth in § 63.2-100.

The local board or other child welfare agency having custody of the child shall not be required by the court to make reasonable efforts to reunite the child with a parent if the court finds that (1) the residual parental rights of the parent regarding a sibling of the child have previously been involuntarily terminated; (2) the parent has been convicted of an offense under the laws of the Commonwealth or a substantially similar law of any other state, the United States or any foreign jurisdiction that constitutes murder or voluntary manslaughter, or a felony attempt, conspiracy or solicitation to commit any such offense, if the victim of the offense was a child of the parent, a child with whom the parent resided at the time such offense occurred or the other parent of the child; (3) the parent has been convicted of an offense under the laws of the Commonwealth or a substantially similar law of any other state, the United States or any foreign jurisdiction that constitutes felony assault resulting in serious bodily injury or felony bodily wounding resulting in serious bodily injury or felony sexual assault, if the victim of the offense was a child of the parent or a child with whom the parent resided at the time of such offense; or (4) based on clear and convincing evidence, the parent has subjected any child to aggravated circumstances, or abandoned a child under circumstances which would justify the termination of residual parental rights pursuant to subsection D of § 16.1-283.

As used in this section:

"Aggravated circumstances" means torture, chronic or severe abuse, or chronic or severe sexual abuse, if the victim of such conduct was a child of the parent or child with whom the parent resided at the time such conduct occurred, including the failure to protect such a child from such conduct, which conduct or failure to protect: (i) evinces a wanton or depraved indifference to human life, or (ii) has resulted in the death of such a child or in serious bodily injury to such a child.

"Chronic abuse" or "chronic sexual abuse" means recurring acts of physical abuse that place the child's health, safety and well-being at risk.

"Serious bodily injury" means bodily injury that involves substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ or mental faculty.

"Severe abuse" or "severe sexual abuse" may include an act or omission that occurred only once, but otherwise meets the definition of "aggravated circumstances."

Within 30 days of making a determination that reasonable efforts to reunite the child with the parents

897 are not required, the court shall hold a permanency planning hearing pursuant to § 16.1-282.1.

898 C. A copy of the entire foster care plan shall be sent by the court to the child, if he is 12 years of  
899 age or older; the guardian ad litem for the child, the attorney for the child's parents or for any other  
900 person standing in loco parentis at the time the board or child welfare agency obtained custody or the  
901 board placed the child, to the parents or other person standing in loco parentis, and such other persons  
902 as appear to the court to have a proper interest in the plan. However, a copy of the plan shall not be  
903 sent to a parent whose parental rights regarding the child have been terminated. A copy of the plan,  
904 excluding the section of the plan describing the reasons why the child cannot be returned home and the  
905 alternative chosen, shall be sent by the court to the foster parents. A hearing shall be held for the  
906 purpose of reviewing and approving the foster care plan. The hearing shall be held within 75 days of (i)  
907 the child's initial foster care placement, if the child was placed through an agreement between the  
908 parents or guardians and the local department of social services or a child welfare agency; (ii) the  
909 original preliminary removal order hearing, if the child was placed in foster care pursuant to § 16.1-252;  
910 (iii) the hearing on the petition for relief of custody, if the child was placed in foster care pursuant to  
911 § 16.1-277.02; or (iv) the dispositional hearing at which the child was placed in foster care and an order  
912 was entered pursuant to § 16.1-278.2, 16.1-278.3, ~~16.1-278.4~~, ~~16.1-278.5~~ 16.1-245.4, 16.1-245.5,  
913 16.1-278.6, or 16.1-278.8. However, the hearing shall be held in accordance with the provisions of  
914 § 16.1-277.01 with a petition for approval of an entrustment agreement. If the judge makes any revision  
915 in any part of the foster care plan, a copy of the changes shall be sent by the court to all persons who  
916 received a copy of the original of that part of the plan.

917 C1. Any order transferring custody of the child to a relative other than the child's prior family shall  
918 be entered only upon a finding, based upon a preponderance of the evidence, that the relative is one  
919 who, after an investigation as directed by the court, (i) is found by the court to be willing and qualified  
920 to receive and care for the child; (ii) is willing to have a positive, continuous relationship with the child;  
921 (iii) is committed to providing a permanent, suitable home for the child; and (iv) is willing and has the  
922 ability to protect the child from abuse and neglect; and the order shall so state. The court's order  
923 transferring custody to a relative should further provide for, as appropriate, any terms or conditions  
924 which would promote the child's interest and welfare; ongoing provision of social services to the child  
925 and the child's custodian; and court review of the child's placement.

926 C2. Any order entered at the conclusion of the hearing that has the effect of achieving a permanent  
927 goal for the child by terminating residual parental rights pursuant to § 16.1-277.01, 16.1-277.02,  
928 16.1-278.3, or 16.1-283; by placing the child in permanent foster care pursuant to subdivision A iv of  
929 § 16.1-282.1; or by directing the board or agency to provide the child with services to achieve  
930 independent living status, if the child has attained the age of 16 years, pursuant to subdivision A v of  
931 § 16.1-282.1 shall state whether reasonable efforts have been made to place the child in a timely manner  
932 in accordance with the foster care plan and to complete the steps necessary to finalize the permanent  
933 placement of the child.

934 D. The court in which the foster care plan is filed shall be notified immediately if the child is  
935 returned to his parents or other persons standing in loco parentis at the time the board or agency  
936 obtained custody or the board placed the child.

937 E. At the conclusion of the hearing at which the initial foster care plan is reviewed, the court shall  
938 schedule a foster care review hearing to be held within six months in accordance with § 16.1-282.  
939 However, if an order is entered pursuant to subsection C2, the court shall schedule a foster care review  
940 hearing to be held within 12 months of the entry of such order in accordance with the provisions of  
941 § 16.1-282.2. Parties who are present at the hearing at which the initial foster care plan is reviewed shall  
942 be given notice of the date set for the foster care review hearing and parties who are not present shall  
943 be summoned as provided in § 16.1-263.

944 F. Nothing in this section shall limit the authority of the juvenile judge or the staff of the juvenile  
945 court, upon order of the judge, to review the status of children in the custody of local boards of social  
946 services or placed by local boards of social services on its own motion. The court shall appoint an  
947 attorney to act as guardian ad litem to represent the child any time a hearing is held to review the foster  
948 care plan filed for the child or to review the child's status in foster care.

949 § 16.1-286. Cost of maintenance; approval of placement; semiannual review.

950 A. When the court determines that the behavior of a child within its jurisdiction is such that it cannot  
951 be dealt with in the child's own locality or with the resources of his locality, the judge shall refer the  
952 child to the locality's family assessment and planning team for assessment and a recommendation for  
953 services. Based on this recommendation, the court may take custody and place the child, pursuant to the  
954 provisions of subdivision 5 of § ~~16.1-278.4~~ 16.1-245.4 or 13 b of § 16.1-278.8, in a private or locally  
955 operated public facility, or nonresidential program with funding in accordance with the Comprehensive  
956 Services Act for At-Risk Youth and Families (§ 2.2-5200 et seq.). No child shall be placed outside the  
957 Commonwealth by a court without first complying with the appropriate provisions of Chapter 11  
958 (§ 63.2-1100 et seq.) of Title 63.2 or with regulations of the State Board of Social Services relating to

resident children placed out of the Commonwealth.

The Board shall establish a per diem allowance to cover the cost of such placements. This allowance may be drawn from funds allocated through the state pool of funds to the community policy and management team of the locality where the child resides as such residence is determined by the court. The cost, however, shall not exceed that amount which would be incurred if the services required by the child were provided in a juvenile facility operated by the Department of Juvenile Justice. However, when the court determines after an investigation and a hearing that the child's parent or other person legally obligated to provide support is financially able to contribute to support of the child, the court may order that the parent or other legally obligated person pay, pursuant to § 16.1-290. If the parent or other obligated person willfully fails or refuses to pay such sum, the court may proceed against him for contempt. Alternatively, the court, after reasonable notice to the obligor, may enter an order adjudicating that the obligor is delinquent and such order shall have the effect of a civil judgment when duly docketed in the manner prescribed for the docketing of other judgments for money provided.

B. The court service unit of the locality which made the placement shall be responsible for monitoring and supervising all children placed pursuant to this section. The court shall receive and review, at least semiannually, recommendations concerning the continued care of each child in such placements.

§ 16.1-291. Revocation or modification of probation, protective supervision or parole; proceedings; disposition.

A. A juvenile or person who violates an order of the juvenile court entered into pursuant to §§ 16.1-278.2 through 16.1-278.10, who violates the conditions of his probation granted pursuant to § ~~16.1-278.5~~ 16.1-245.5 or § 16.1-278.8, or who violates the conditions of his parole granted pursuant to §§ 16.1-285, 16.1-285.1 or § 16.1-293, may be proceeded against for a revocation or modification of such order or parole status. A proceeding to revoke or modify probation, protective supervision or parole shall be commenced by the filing of a petition. Except as otherwise provided, such petitions shall be screened, reviewed and prepared in the same manner and shall contain the same information as provided in §§ 16.1-260 and 16.1-262. The petition shall recite the date that the juvenile or person was placed on probation, under protective supervision or on parole and shall state the time and manner in which notice of the terms of probation, protective supervision or parole were given.

B. If a juvenile or person is found to have violated a prior order of the court or the terms of probation or parole, the court may, in accordance with the provisions of §§ 16.1-278.2 through 16.1-278.10, upon a revocation or modification hearing, modify or extend the terms of the order of probation or parole, including termination of probation or parole. However, notwithstanding the contempt power of the court as provided in § 16.1-292, the court shall be limited in the actions it may take to those that the court may have taken at the time of the court's original disposition pursuant to §§ 16.1-278.2 through 16.1-278.10, except as hereinafter provided.

C. In the event that a child in need of supervision is found to have willfully and materially violated an order of the court or the terms of his probation granted pursuant to § ~~16.1-278.5~~ 16.1-245.5, in addition to or in lieu of the dispositions specified in that section, the court may enter any of the following orders of disposition:

1. Suspend the child's driver's license upon terms and conditions which may include the issuance of a restricted license for those purposes set forth in subsection E of § 18.2-271.1; or

2. Order any such child fourteen years of age or older to be (i) placed in a foster home, group home or other nonsecure residential facility, or, (ii) if the court finds that such placement is not likely to meet the child's needs, that all other treatment options in the community have been exhausted, and that secure placement is necessary in order to meet the child's service needs, detained in a secure facility for a period of time not to exceed ten consecutive days for violation of any order of the court or violation of probation arising out of the same petition. The court shall state in its order for detention the basis for all findings required by this section. When any child is detained in a secure facility pursuant to this section, the court shall direct the agency evaluating the child pursuant to § ~~16.1-278.5~~ 16.1-245.5 to reconvene the interdisciplinary team participating in such evaluation, develop further treatment plans as may be appropriate and submit its report to the court of its determination as to further treatment efforts either during or following the period the child is in secure detention. A child may only be detained pursuant to this section in a detention home or other secure facility in compliance with standards established by the State Board. Any order issued pursuant to this subsection is a final order and is appealable as provided by law.

D. Nothing in this section shall be construed to reclassify a child in need of supervision as a delinquent.

E. If a person adjudicated delinquent and found to have violated an order of the court or the terms of his probation or parole was a juvenile at the time of the original offense and is eighteen years of age or older when the court enters disposition for violation of the order of the court or the terms of his

920 probation or parole, the dispositional alternative specified in § 16.1-284 shall be available to the court.

921 § 16.1-292. Violation of court order by any person.

922 A. Any person violating an order of the juvenile court entered pursuant to §§ 16.1-278.2 through  
923 16.1-278.19, including a parent subject to an order issued pursuant to subdivision 3 of § 16.1-278.8, may  
924 be proceeded against (i) by an order requiring the person to show cause why the order of the court  
925 entered pursuant to §§ 16.1-278.2 through 16.1-278.19 has not been complied with, (ii) for contempt of  
926 court pursuant to § 16.1-69.24 or as otherwise provided in this section, or (iii) by both. Except as  
927 otherwise expressly provided herein, nothing in this chapter shall deprive the court of its power to  
928 punish summarily for contempt for such acts as set forth in § 18.2-456, or to punish for contempt after  
929 notice and an opportunity for a hearing on the contempt except that confinement in the case of a  
930 juvenile shall be in a secure facility for juveniles rather than in jail and shall not exceed a period of ten  
931 days for each offense. However, if the person violating the order was a juvenile at the time of the  
932 original act and is eighteen years of age or older when the court enters a disposition for violation of the  
933 order, the judge may order confinement in jail.

934 B. Upon conviction of any party for contempt of court in failing or refusing to comply with an order  
935 of a juvenile court for spousal support or child support under § 16.1-278.15, the court may commit and  
936 sentence such party to confinement in a jail, workhouse, city farm or work squad as provided in  
937 §§ 20-61 and 20-62, for a fixed or indeterminate period or until the further order of the court. In no  
938 event, however, shall such sentence be imposed for a period of more than twelve months. The sum or  
939 sums as provided for in § 20-63 shall be paid as therein set forth, to be used for the support and  
940 maintenance of the spouse or the child or children for whose benefit such order or decree provided.

941 C. Notwithstanding the contempt power of the court, the court shall be limited in the actions it may  
942 take with respect to a child violating the terms and conditions of an order to those which the court  
943 could have taken at the time of the court's original disposition pursuant to §§ 16.1-278.2 through  
944 16.1-278.10, except as hereinafter provided. However, this limitation shall not be construed to deprive  
945 the court of its power to (i) punish a child summarily for contempt for acts set forth in § 18.2-456 or  
946 (ii) punish a child for contempt for violation of a dispositional order in a delinquency proceeding after  
947 notice and an opportunity for a hearing regarding such contempt, including acts of disobedience of the  
948 court's dispositional order which are committed outside the presence of the court.

949 D. In the event a child in need of services is found to have willfully and materially violated for a  
950 second or subsequent time the order of the court pursuant to § ~~16.1-278.4~~ 16.1-245.4, the dispositional  
951 alternatives specified in subdivision 9 of § 16.1-278.8 shall be available to the court.

952 E. In the event a child in need of supervision is found to have willfully and materially violated an  
953 order of the court pursuant to § ~~16.1-278.5~~ 16.1-245.5, the court may enter any of the following orders  
954 of disposition:

955 1. Suspend the child's motor vehicle driver's license;

956 2. Order any such child fourteen years of age or older to be (i) placed in a foster home, group home  
957 or other nonsecure residential facility, or, (ii) if the court finds that such placement is not likely to meet  
958 the child's needs, that all other treatment options in the community have been exhausted, and that secure  
959 placement is necessary in order to meet the child's service needs, detained in a secure facility for a  
960 period of time not to exceed ten consecutive days for violation of any order of the court arising out of  
961 the same petition. The court shall state in its order for detention the basis for all findings required by  
962 this section. When any child is detained in a secure facility pursuant to this section, the court shall  
963 direct the agency evaluating the child pursuant to § ~~16.1-278.5~~ 16.1-245.5 to reconvene the  
964 interdisciplinary team participating in such evaluation as promptly as possible to review its evaluation,  
965 develop further treatment plans as may be appropriate and submit its report to the court for its  
966 determination as to further treatment efforts either during or following the period the child is in secure  
967 detention. A juvenile may only be detained pursuant to this section in a detention home or other secure  
968 facility in compliance with standards established by the State Board. Any order issued pursuant to this  
969 subsection is a final order and is appealable to the circuit court as provided by law.

970 F. Nothing in this section shall be construed to reclassify a child in need of services or in need of  
971 supervision as a delinquent.

972 § 16.1-298. Effect of petition for or pendency of appeal; bail.

973 A. Except as provided herein, a petition for or the pendency of an appeal or writ of error shall not  
974 suspend any judgment, order or decree of the juvenile court nor operate to discharge any child  
975 concerned or involved in the case from the custody of the court or other person, institution or agency to  
976 which the child has been committed unless so ordered by the judge of the juvenile court, the judge of a  
977 circuit court or directed in a writ of supersedeas by the Court of Appeals or the Supreme Court or a  
978 judge or justice thereof.

979 B. The judgment, order or decree of the juvenile court shall be suspended upon a petition for or the  
980 pendency of an appeal or writ of error:

981 1. In cases of delinquency in which the final order of the juvenile court is pursuant to subdivision 8,



9, 10, 12, 14, or 15 of § 16.1-278.8.

2. In cases involving a child and any local ordinance.

3. In cases involving any person over the age of eighteen years.

Such suspension as is provided for in this subsection shall not apply to (i) an order for support of a spouse, parent or child or to a preliminary protective order issued pursuant to § 16.1-253, (ii) an order disposing of a motion to reconsider relating to participation in continuing programs pursuant to § 16.1-289.1, (iii) a protective order in cases of family abuse issued pursuant to § 16.1-279.1 or a protective order entered in conjunction with a disposition pursuant to § 16.1-245.4, 16.1-245.5, 16.1-278.2, ~~16.1-278.4~~, ~~16.1-278.5~~, 16.1-278.6 or 16.1-278.8, (iv) a protective order issued pursuant to § 19.2-152.10, or (v) an order pertaining to the custody, visitation, or placement of a minor child, unless so ordered by the judge of a circuit court or directed in a writ of supersedeas by the Court of Appeals or the Supreme Court.

C. In cases where the order of the juvenile court is suspended pursuant to subsection B hereof or by order of the juvenile court or the circuit court, bail may be required as provided for in § 16.1-135.

D. If an appeal to the circuit court is withdrawn in accordance with § 16.1-106.1, the judgment, order, or decree rendered by the juvenile court shall have the same legal effect as if no appeal had been noted, except as to the disposition of any bond in circuit court or as modified by the circuit court pursuant to subsection F of § 16.1-106.1. If an appeal is withdrawn, any court-appointed counsel or court-appointed guardian ad litem shall, absent further order of the court, be relieved of any further obligation respecting the matter for which they were appointed.

E. Except as to matters pending on the docket of a circuit court as of July 1, 2008, all orders that were entered by a juvenile and domestic relations district court prior to July 1, 2008, and appealed to a circuit court, where the appeal was withdrawn, shall have the same effect as if no appeal had been noted.

§ 20-49. When consent required and how given.

If any person intending to marry is under eighteen years of age and has not been previously married, the consent of the father or mother or guardian of such person or persons shall be given either personally to the clerk or judge or in writing subscribed by a witness, who shall make oath before the clerk or judge that the writing was signed or sworn to in his presence by such father, guardian, or mother, as the case may be, or the writing shall be sworn to before a notary public or some person authorized to take acknowledgments to deeds under the laws of this Commonwealth, which oath shall be properly certified by such officer. If there is no father, guardian, or mother, or if such person or persons are abandoned by his or their parents, the judge of the circuit court of the county or city wherein such person or either of them resides, either in term or vacation, may on verified petition of such person or persons intending to marry, authorize a marriage license to be issued, or issue the same, as the case may be. However, no consent shall be required where the minor has been emancipated.

If any such person under eighteen years of age is a ward of the Commonwealth by virtue of having been adjudicated a delinquent, in need of supervision, in need of services, or an abused or neglected child pursuant to §§ 16.1-245.4, 16.1-245.5, 16.1-278.2, ~~16.1-278.4~~, ~~16.1-278.5~~, or § 16.1-278.8, the consent required by this section shall be given by the judge having jurisdiction to control the custody of such person; or, if such person so adjudicated has been committed to the Department of Juvenile Justice, such consent shall be given personally by the Director of the Department of Juvenile Justice or by some person thereto authorized by him, such authorization to be in writing, attested or sworn to as hereinabove provided. However, no consent shall be required where the minor has been emancipated.

§ 22.1-265. Inducing children to absent themselves.

Any person who induces or attempts to induce any child to be absent unlawfully from school or who knowingly employs or harbors, while school is in session, any child absent unlawfully shall be guilty of a Class 3 misdemeanor and may be subject to the penalties provided by subdivision B 5 a of subsection B of § ~~16.1-278.5~~ 16.1-245.5 or § 18.2-371. Upon a finding that a person knowingly and willfully violated the provisions of this section and that such person has been convicted previously of a violation of this section, such person shall be guilty of a Class 2 misdemeanor.

§ 63.2-100. Definitions.

As used in this title, unless the context requires a different meaning:

"Abused or neglected child" means any child less than 18 years of age:

1. Whose parents or other person responsible for his care creates or inflicts, threatens to create or inflict, or allows to be created or inflicted upon such child a physical or mental injury by other than accidental means, or creates a substantial risk of death, disfigurement, or impairment of bodily or mental functions, including but not limited to, a child who is with his parent or other person responsible for his care either (i) during the manufacture or attempted manufacture of a Schedule I or II controlled substance, or (ii) during the unlawful sale of such substance by that child's parents or other person responsible for his care, where such manufacture, or attempted manufacture or unlawful sale would

1043 constitute a felony violation of § 18.2-248;

1044 2. Whose parents or other person responsible for his care neglects or refuses to provide care  
1045 necessary for his health. However, no child who in good faith is under treatment solely by spiritual  
1046 means through prayer in accordance with the tenets and practices of a recognized church or religious  
1047 denomination shall for that reason alone be considered to be an abused or neglected child. Further, a  
1048 decision by parents who have legal authority for the child or, in the absence of parents with legal  
1049 authority for the child, any person with legal authority for the child, who refuses a particular medical  
1050 treatment for a child with a life-threatening condition shall not be deemed a refusal to provide necessary  
1051 care if (i) such decision is made jointly by the parents or other person with legal authority and the child;  
1052 (ii) the child has reached 14 years of age and is sufficiently mature to have an informed opinion on the  
1053 subject of his medical treatment; (iii) the parents or other person with legal authority and the child have  
1054 considered alternative treatment options; and (iv) the parents or other person with legal authority and the  
1055 child believe in good faith that such decision is in the child's best interest. Nothing in this subdivision  
1056 shall be construed to limit the provisions of § ~~16.1-278.4~~ 16.1-245.4;

1057 3. Whose parents or other person responsible for his care abandons such child;

1058 4. Whose parents or other person responsible for his care commits or allows to be committed any act  
1059 of sexual exploitation or any sexual act upon a child in violation of the law;

1060 5. Who is without parental care or guardianship caused by the unreasonable absence or the mental or  
1061 physical incapacity of the child's parent, guardian, legal custodian or other person standing in loco  
1062 parentis; or

1063 6. Whose parents or other person responsible for his care creates a substantial risk of physical or  
1064 mental injury by knowingly leaving the child alone in the same dwelling, including an apartment as  
1065 defined in § 55-79.2, with a person to whom the child is not related by blood or marriage and who the  
1066 parent or other person responsible for his care knows has been convicted of an offense against a minor  
1067 for which registration is required as a violent sexual offender pursuant to § 9.1-902.

1068 If a civil proceeding under this title is based solely on the parent having left the child at a hospital  
1069 or rescue squad, it shall be an affirmative defense that such parent safely delivered the child to a  
1070 hospital that provides 24-hour emergency services or to an attended rescue squad that employs  
1071 emergency medical technicians, within 14 days of the child's birth. For purposes of terminating parental  
1072 rights pursuant to § 16.1-283 and placement for adoption, the court may find such a child is a neglected  
1073 child upon the ground of abandonment.

1074 "Adoptive home" means any family home selected and approved by a parent, local board or a  
1075 licensed child-placing agency for the placement of a child with the intent of adoption.

1076 "Adoptive placement" means arranging for the care of a child who is in the custody of a  
1077 child-placing agency in an approved home for the purpose of adoption.

1078 "Adult abuse" means the willful infliction of physical pain, injury or mental anguish or unreasonable  
1079 confinement of an adult.

1080 "Adult day care center" means any facility that is either operated for profit or that desires licensure  
1081 and that provides supplementary care and protection during only a part of the day to four or more aged,  
1082 infirm or disabled adults who reside elsewhere, except (i) a facility or portion of a facility licensed by  
1083 the State Board of Health or the Department of Mental Health, Mental Retardation and Substance Abuse  
1084 Services, and (ii) the home or residence of an individual who cares for only persons related to him by  
1085 blood or marriage. Included in this definition are any two or more places, establishments or institutions  
1086 owned, operated or controlled by a single entity and providing such supplementary care and protection  
1087 to a combined total of four or more aged, infirm or disabled adults.

1088 "Adult exploitation" means the illegal use of an incapacitated adult or his resources for another's  
1089 profit or advantage.

1090 "Adult foster care" means room and board, supervision, and special services to an adult who has a  
1091 physical or mental condition. Adult foster care may be provided by a single provider for up to three  
1092 adults.

1093 "Adult neglect" means that an adult is living under such circumstances that he is not able to provide  
1094 for himself or is not being provided services necessary to maintain his physical and mental health and  
1095 that the failure to receive such necessary services impairs or threatens to impair his well-being.

1096 "Adult protective services" means services provided by the local department that are necessary to  
1097 protect an adult from abuse, neglect or exploitation.

1098 "Assisted living care" means a level of service provided by an assisted living facility for adults who  
1099 may have physical or mental impairments and require at least a moderate level of assistance with  
1100 activities of daily living.

1101 "Assisted living facility" means any congregate residential setting that provides or coordinates  
1102 personal and health care services, 24-hour supervision, and assistance (scheduled and unscheduled) for  
1103 the maintenance or care of four or more adults who are aged, infirm or disabled and who are cared for  
1104 in a primarily residential setting, except (i) a facility or portion of a facility licensed by the State Board

of Health or the Department of Mental Health, Mental Retardation and Substance Abuse Services, but including any portion of such facility not so licensed; (ii) the home or residence of an individual who cares for or maintains only persons related to him by blood or marriage; (iii) a facility or portion of a facility serving infirm or disabled persons between the ages of 18 and 21, or 22 if enrolled in an educational program for the handicapped pursuant to § 22.1-214, when such facility is licensed by the Department as a children's residential facility under Chapter 17 (§ 63.2-1700 et seq.) of this title, but including any portion of the facility not so licensed; and (iv) any housing project for persons 62 years of age or older or the disabled that provides no more than basic coordination of care services and is funded by the U.S. Department of Housing and Urban Development, by the U.S. Department of Agriculture, or by the Virginia Housing Development Authority. Included in this definition are any two or more places, establishments or institutions owned or operated by a single entity and providing maintenance or care to a combined total of four or more aged, infirm or disabled adults. Maintenance or care means the protection, general supervision and oversight of the physical and mental well-being of an aged, infirm or disabled individual.

"Auxiliary grants" means cash payments made to certain aged, blind or disabled individuals who receive benefits under Title XVI of the Social Security Act, as amended, or would be eligible to receive these benefits except for excess income.

"Birth family" or "birth sibling" means the child's biological family or biological sibling.

"Birth parent" means the child's biological parent and, for purposes of adoptive placement, means parent(s) by previous adoption.

"Board" means the State Board of Social Services.

"Child" means any natural person under 18 years of age.

"Child day center" means a child day program offered to (i) two or more children under the age of 13 in a facility that is not the residence of the provider or of any of the children in care or (ii) 13 or more children at any location.

"Child day program" means a regularly operating service arrangement for children where, during the absence of a parent or guardian, a person or organization has agreed to assume responsibility for the supervision, protection, and well-being of a child under the age of 13 for less than a 24-hour period.

"Child-placing agency" means any person who places children in foster homes, adoptive homes or independent living arrangements pursuant to § 63.2-1819 or a local board that places children in foster homes or adoptive homes pursuant to §§ 63.2-900, 63.2-903, and 63.2-1221. Officers, employees, or agents of the Commonwealth, or any locality acting within the scope of their authority as such, who serve as or maintain a child-placing agency, shall not be required to be licensed.

"Child-protective services" means the identification, receipt and immediate response to complaints and reports of alleged child abuse or neglect for children under 18 years of age. It also includes assessment, and arranging for and providing necessary protective and rehabilitative services for a child and his family when the child has been found to have been abused or neglected or is at risk of being abused or neglected.

"Child support services" means any civil, criminal or administrative action taken by the Division of Child Support Enforcement to locate parents; establish paternity; and establish, modify, enforce, or collect child support, or child and spousal support.

"Child-welfare agency" means a child day center, child-placing agency, children's residential facility, family day home, family day system, or independent foster home.

"Children's residential facility" means any facility, child-caring institution, or group home that is maintained for the purpose of receiving children separated from their parents or guardians for full-time care, maintenance, protection and guidance, or for the purpose of providing independent living services to persons between 18 and 21 years of age who are in the process of transitioning out of foster care. Children's residential facility shall not include:

1. A licensed or accredited educational institution whose pupils, in the ordinary course of events, return annually to the homes of their parents or guardians for not less than two months of summer vacation;

2. An establishment required to be licensed as a summer camp by § 35.1-18; and

3. A licensed or accredited hospital legally maintained as such.

"Commissioner" means the Commissioner of the Department, his designee or authorized representative.

"Department" means the State Department of Social Services.

"Department of Health and Human Services" means the Department of Health and Human Services of the United States government or any department or agency thereof that may hereafter be designated as the agency to administer the Social Security Act, as amended.

"Disposable income" means that part of the income due and payable of any individual remaining after the deduction of any amount required by law to be withheld.

1166 "Energy assistance" means benefits to assist low-income households with their home heating and  
1167 cooling needs, including, but not limited to, purchase of materials or substances used for home heating,  
1168 repair or replacement of heating equipment, emergency intervention in no-heat situations, purchase or  
1169 repair of cooling equipment, and payment of electric bills to operate cooling equipment, in accordance  
1170 with § 63.2-805, or provided under the Virginia Energy Assistance Program established pursuant to the  
1171 Low-Income Home Energy Assistance Act of 1981 (Title XXVI of Public Law 97-35), as amended.

1172 "Family day home" means a child day program offered in the residence of the provider or the home  
1173 of any of the children in care for one through 12 children under the age of 13, exclusive of the  
1174 provider's own children and any children who reside in the home, when at least one child receives care  
1175 for compensation. The provider of a licensed or registered family day home shall disclose to the parents  
1176 or guardians of children in their care the percentage of time per week that persons other than the  
1177 provider will care for the children. Family day homes serving six through 12 children, exclusive of the  
1178 provider's own children and any children who reside in the home, shall be licensed. However, no family  
1179 day home shall care for more than four children under the age of two, including the provider's own  
1180 children and any children who reside in the home, unless the family day home is licensed or voluntarily  
1181 registered. However, a family day home where the children in care are all grandchildren of the provider  
1182 shall not be required to be licensed.

1183 "Family day system" means any person who approves family day homes as members of its system;  
1184 who refers children to available family day homes in that system; and who, through contractual  
1185 arrangement, may provide central administrative functions including, but not limited to, training of  
1186 operators of member homes; technical assistance and consultation to operators of member homes;  
1187 inspection, supervision, monitoring, and evaluation of member homes; and referral of children to  
1188 available health and social services.

1189 "Foster care placement" means placement of a child through (i) an agreement between the parents or  
1190 guardians and the local board or the public agency designated by the community policy and  
1191 management team where legal custody remains with the parents or guardians or (ii) an entrustment or  
1192 commitment of the child to the local board or licensed child-placing agency.

1193 "Foster home" means the place of residence of any natural person in which any child, other than a  
1194 child by birth or adoption of such person, resides as a member of the household.

1195 "General relief" means money payments and other forms of relief made to those persons mentioned  
1196 in § 63.2-802 in accordance with the regulations of the Board and reimbursable in accordance with  
1197 § 63.2-401.

1198 "Independent foster home" means a private family home in which any child, other than a child by  
1199 birth or adoption of such person, resides as a member of the household and has been placed therein  
1200 independently of a child-placing agency except (i) a home in which are received only children related by  
1201 birth or adoption of the person who maintains such home and children of personal friends of such  
1202 person and (ii) a home in which is received a child or children committed under the provisions of  
1203 subdivision A 4 of § 16.1-278.2, subdivision 6 of § ~~16.1-278.4~~ 16.1-245.4, or subdivision A 13 of  
1204 § 16.1-278.8.

1205 "Independent living" means a planned program of services designed to assist a child aged 16 and  
1206 over and persons who are former foster care children between the ages of 18 and 21 in transitioning  
1207 from foster care to self sufficiency.

1208 "Independent living arrangement" means placement of a child at least 16 years of age who is in the  
1209 custody of a local board or licensed child-placing agency and has been placed by the local board or  
1210 licensed child-placing agency in a living arrangement in which he does not have daily substitute parental  
1211 supervision.

1212 "Independent living services" means services and activities provided to a child in foster care 14 years  
1213 of age or older who was committed or entrusted to a local board of social services, child welfare  
1214 agency, or private child-placing agency. "Independent living services" may also mean services and  
1215 activities provided to a person who was in foster care on his 18th birthday and has not yet reached the  
1216 age of 21 years. Such services shall include counseling, education, housing, employment, and money  
1217 management skills development, access to essential documents, and other appropriate services to help  
1218 children or persons prepare for self-sufficiency.

1219 "Independent physician" means a physician who is chosen by the resident of the assisted living  
1220 facility and who has no financial interest in the assisted living facility, directly or indirectly, as an  
1221 owner, officer, or employee or as an independent contractor with the residence.

1222 "Intercountry placement" means the arrangement for the care of a child in an adoptive home or foster  
1223 care placement into or out of the Commonwealth by a licensed child-placing agency, court, or other  
1224 entity authorized to make such placements in accordance with the laws of the foreign country under  
1225 which it operates.

1226 "Interstate placement" means the arrangement for the care of a child in an adoptive home, foster care  
1227 placement or in the home of the child's parent or with a relative or nonagency guardian, into or out of

the Commonwealth, by a child-placing agency or court when the full legal right of the child's parent or nonagency guardian to plan for the child has been voluntarily terminated or limited or severed by the action of any court.

"Kinship care" means the full-time care, nurturing, and protection of children by relatives.

"Local board" means the local board of social services representing one or more counties or cities.

"Local department" means the local department of social services of any county or city in this Commonwealth.

"Local director" means the director or his designated representative of the local department of the city or county.

"Merit system plan" means those regulations adopted by the Board in the development and operation of a system of personnel administration meeting requirements of the federal Office of Personnel Management.

"Parental placement" means locating or effecting the placement of a child or the placing of a child in a family home by the child's parent or legal guardian for the purpose of foster care or adoption.

"Public assistance" means Temporary Assistance for Needy Families (TANF); auxiliary grants to the aged, blind and disabled; medical assistance; energy assistance; food stamps; employment services; child care; and general relief.

"Qualified assessor" means an entity contracting with the Department of Medical Assistance Services to perform nursing facility pre-admission screening or to complete the uniform assessment instrument for a home and community-based waiver program, including an independent physician contracting with the Department of Medical Assistance Services to complete the uniform assessment instrument for residents of assisted living facilities, or any hospital that has contracted with the Department of Medical Assistance Services to perform nursing facility pre-admission screenings.

"Registered family day home" means any family day home that has met the standards for voluntary registration for such homes pursuant to regulations adopted by the Board and that has obtained a certificate of registration from the Commissioner.

"Residential living care" means a level of service provided by an assisted living facility for adults who may have physical or mental impairments and require only minimal assistance with the activities of daily living. The definition of "residential living care" includes the services provided by independent living facilities that voluntarily become licensed.

"Social services" means foster care, adoption, adoption assistance, adult services, adult protective services, child-protective services, domestic violence services, or any other services program implemented in accordance with regulations adopted by the Board.

"Special order" means an order imposing an administrative sanction issued to any party licensed pursuant to this title by the Commissioner that has a stated duration of not more than 12 months. A special order shall be considered a case decision as defined in § 2.2-4001.

"Temporary Assistance for Needy Families" or "TANF" means the program administered by the Department through which a relative can receive monthly cash assistance for the support of his eligible children.

"Temporary Assistance for Needy Families-Unemployed Parent" or "TANF-UP" means the Temporary Assistance for Needy Families program for families in which both natural or adoptive parents of a child reside in the home and neither parent is exempt from the Virginia Initiative for Employment Not Welfare (VIEW) participation under § 63.2-609.

"Title IV-E Foster Care" means a federal program authorized under §§ 472 and 473 of the Social Security Act, as amended, and administered by the Department through which foster care is provided on behalf of qualifying children.

§ 63.2-906. Foster care plans; permissible plan goals; court review of foster children.

A. Each child, who is committed or entrusted to the care of a local board or to a licensed child-placing agency, or who is placed through an agreement between a local board or a public agency designated by the community policy and management team and the parent, parents or guardians where legal custody remains with the parent, parents or guardians, shall have a foster care plan prepared by the local department, the designated public or child welfare agency, or the family assessment and planning team established pursuant to § 2.2-5207, as specified in § 16.1-281. The representatives of such department, agency, or team shall involve the child's parent(s) in the development of the plan, except when parental rights have been terminated or the local department of social services or other designated agency has made diligent efforts to locate the parent(s) and such parent(s) cannot be located, and any other person or persons standing in loco parentis at the time the board or child welfare agency obtained custody or the board or the public agency placed the child. The representatives of such department, agency, or team shall involve the child in the development of the plan, if such involvement is consistent with the best interests of the child. In cases where either the parent(s) or child is not involved in the development of the plan, the department, agency, or team shall include in the plan a full description of

the reasons therefor.

A court may place a child in the care and custody of (i) a public agency in accordance with § 16.1-251 or 16.1-252, and (ii) a public or licensed private child-placing agency in accordance with § 16.1-245.4, 16.1-245.5, 16.1-278.2, 16.1-278.4, 16.1-278.5, 16.1-278.6, or 16.1-278.8. Children may be placed by voluntary relinquishment in the care and custody of a public or private agency in accordance with § 16.1-277.01 or §§ 16.1-277.02 and 16.1-278.3. Children may be placed through an agreement where legal custody remains with the parent, parents or guardians in accordance with §§ 63.2-900 and 63.2-903, or § 2.2-5208.

B. Each child in foster care shall be assigned a permanent plan goal to be reviewed and approved by the juvenile and domestic relations district court having jurisdiction of the child's case. Permissible plan goals are to:

1. Transfer custody of the child to his prior family;
2. Transfer custody of the child to a relative other than his prior family;
3. Finalize an adoption of the child;
4. Place the child in permanent foster care;
5. Transition to independent living; or
6. Place the child in another planned permanent living arrangement in accordance with subsection A 2 of § 16.1-282.1.

C. Each child in foster care shall be subject to the permanency planning and review procedures established in §§ 16.1-281, 16.1-282, and 16.1-282.1.

§ 66-13. Authority of Department as to juveniles committed to it; establishment of facilities; arrangements for temporary care.

A. The Department is authorized and empowered to receive juveniles committed to it by the courts of the Commonwealth. The Department shall establish, staff and maintain facilities for the rehabilitation, training and confinement of such juveniles. The Department may make arrangements with satisfactory persons, institutions or agencies, or with cities or counties maintaining places of detention for juveniles, for the temporary care of such juveniles.

B. In accordance with the Juvenile Corrections Private Management Act, Chapter 2.1 (§ 66-25.3 et seq.) of this title, the Department may establish, or contract with private entities, political subdivisions or commissions to establish, juvenile boot camps. The Board shall prescribe standards for the development, implementation and operation of the boot camps with highly structured components including, but not limited to, military style drill and ceremony, physical labor, education and rigid discipline and no less than six months of intensive aftercare. The Department of Correctional Education shall establish, staff, and maintain educational programs for such juveniles in accordance with Chapter 18 (§ 22.1-339 et seq.) of Title 22.1. A contract to expend state funds to establish a facility for a juvenile boot camp shall not be executed by the Department unless an appropriation has been expressly approved as is otherwise provided by law.

C. The Department may by mutual agreement with a locality or localities and, pursuant to standards promulgated pursuant to § 16.1-309.9, establish detention homes for use by a locality or localities for pre-trial and post-dispositional detention pursuant to §§ 16.1-245.2, 16.1-248.1 and 16.1-284.1. The Department may collect by mutual agreement with a locality or localities and from any locality of this Commonwealth from which a juvenile is placed in such a detention home, the reasonable cost of maintaining such juvenile in such facility and a portion of the cost of construction of such facility. Such agreements shall be subject to approval by the General Assembly in the general appropriation act.

D. The Department shall collect data pertaining to the demographic characteristics of juveniles incarcerated in state juvenile correctional institutions, including, but not limited to, the race or ethnicity, age, and gender of such persons, and the types of and extent to which health-related problems are prevalent among such persons. Beginning July 1, 1997, such data shall be collected, tabulated quarterly, and reported by the Director to the Governor and the General Assembly at each regular session of the General Assembly thereafter.

**2. That §§ 16.1-278.4 and 16.1-278.5 of the Code of Virginia are repealed.**

**3. That the provisions of Article 3.1 (§ 16.1-245.2 et seq.) of Chapter 11 of Title 16.1 of the Code of Virginia that are identical to the statutory provisions of the Code of Virginia that were in effect prior to July 1, 2009, are declarative of existing law.**